

REMARKS

Claims 1-3 and 6-32 are pending in the application. It is gratefully acknowledged that Claims 29-32 have been allowed. Claims 6-13 and 18-28 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

The Examiner has rejected Claims 1, 2, 14 and 16 under 35 U.S.C. §103(a) as being unpatentable over Makela et al. (U.S. Publication 2003/0152097) in view of Love et al. (U.S. Publication 2004/0116143) and further in view of Johansson et al. (U.S. Publication 2002/0072370). The Examiner has rejected Claims 3, 15 and 17 under 35 U.S.C. §103(a) as being unpatentable over Makela et al., Love et al. and Johansson et al. in view of Applicants' Admitted Prior Art (APA).

Regarding the rejection of independent Claims 1 and 14, the Examiner states that Makela et al. in view of Love et al. and further in view of Johansson et al. renders the claims unpatentable. Makela et al. discloses transmitting packet data; Love et al. discloses a method and apparatus for providing a distributed architecture digital wireless communication system; and, Johansson et al. discloses using geographical coordinates to determine mobile station time position for synchronization during diversity handover.

The Examiner now cites Johansson et al. as allegedly disclosing weighted scheduling commands. Applicants respectfully disagree. The Examiner cites paragraphs [0039] and [0046]-[0049] of Johansson et al. for allegedly teaching weighted scheduling commands. After a thorough review of Johansson et al. Applicants respectfully submit that Johansson et al. makes no reference to any weighting of any elements, let alone scheduling commands.

Each of independent Claims 1 and 14 also recite that the weighting factors are determined individually for the scheduling commands. The Examiner continues to rely on Makela et al. at paragraph [0029] as disclosing these features. Paragraph [0029] of Makela et al. states, (emphasis

added):

[0029] In FIG. 2, separate send **queues** 21, 22 and 23 are assigned for each of the three traffic handling priorities in the interactive traffic class. The data packets are sent forward from the **queues** e.g. by using WFQ (Weighted Fair Queuing) method. The WFQ function 24 may be implemented such that the **weights of the queues** are configurable by the user of the network element (e.g. the operator of the network 2 or the user of the mobile station 1). The embodiments of the present invention enable dynamic adjustment of the **weights of the queues** in accordance with the number of the PDP contexts that are using the queues. The **weights of the queues** may be assigned and/or the dynamic changing of the weights is preferably implemented during the activation/deactivation of the PDP contexts i.e. the logical connections between the user 1 and the access point 16. By means of the dynamic adjustment of the weights the relative priorities of the data packets in the interactive traffic class may remain the same regardless of the number of the active PDP contexts.

Since Claim 1 and 14 recite that the weighting factors are determined individually for the scheduling commands and Makela et al. recites that weights are determined, not individually, but for the queues, Makela et al. cannot be used to render the Claims unpatentable. Neither Love et al. nor Johansson et al. cure this defect of Makela et al.

Based on at least the foregoing, withdrawal of the rejected Claims 1, 2, 14 and 16 under 35 U.S.C. §103(a) is respectfully requested.

Independent Claims 1 and 14 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3 and 15-17, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3 and 15-17 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-3 and 6-32, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over a horizontal line.

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